

### **REMARKS**

Applicants respectfully request reconsideration of this application in view of the above amendments and the following remarks. Currently, claims 1-5, 8-13, 16-21, and 23-36 are pending, with claims 23-35 withdrawn from consideration. Independent claim 1, for instance, is directed to a single sided elastic laminate capable of being rolled for storage and unwound from the roll when needed for use. The laminate comprises an elastic layer comprising continuous filament strands, a facing layer bonded to only one side of the elastic layer, and an adhesive that demonstrates an open time of between about 0.2 seconds and 3 seconds deposited between the elastic layer and the facing layer. The elastic laminate further comprises a layer which comprises a meltblown nonblocking agent applied to the elastic layer in an amount of between about 0.2 and 2.0 gsm, whereby the layer is not in contact with the facing layer or the adhesive when unwound. The layer which comprises the meltblown nonblocking agent is adhered to the elastic layer forming a not gathered layer.

### **Drawings**

The Examiner objected to the drawings under 37 CFR 1.83(a). Specifically, the Examiner stated that the Figure 2 does not show the adhesive layer and Figs. 4 and 5 also do not show the embodiment as described in claim 1.

Claim 1 is directed to an elastic laminate comprising 1) an elastic layer comprising continuous filament strands; 2) a facing layer bonded to one side of the elastic layer; 3) an adhesive between the elastic and facing layers; and 4) a layer comprising a meltblown nonblocking agent. Figure 3 illustrates one embodiment wherein a facing material 155 is applied with adhesive 160, adhered to an elastic layer

comprising filaments 105 by passing through nip rolls 165 and a nonblocking agent 161 is applied. See pg. 30, lines 7-24.

Furthermore, each element of claim 1 is illustrated in a combination of the remaining figures. For instance, Figure 4 illustrates a facing material 182 adhesively bonded 184 to an elastic layer comprising continuous filament strands 186. Figure 2 illustrates a nonblocking agent layer 90. Applicants submit that each element of claim 1 is illustrated in the drawings and is in compliance with 37 CFR 1.83(a). Furthermore, Applicants note that each and every limitation of a given claim need not be illustrated in a single drawing as long as they are illustrated in the drawings sufficiently to permit one skilled in the art to construct the invention. Applicants respectfully request withdrawal of this objection.

#### **Claim Rejections – 35 USC § 112**

Claims 1-5, 7-13, 16-21, 23-25, and 36 were rejected under 35 USC § 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which Applicant regards as the invention. In response, Applicants have amended claim 1 to remove the term “tightly.” Thus, Applicants respectfully request withdrawal of this rejection.

#### **Claim Rejections – 35 USC § 103(a)**

In the Office Action, independent claim 1 was rejected under 35 U.S.C. § 103(a) as being unpatentable over Mleziva et al. (U.S. Patent No. 6,057,024) in view of Schmidt et al. (U.S. Patent No. 4,460,728) and Owen (“Release Agents”, Encyclopedia of Polymer Science and Technology) and Benoit (U.S. Patent No. 4,833,017). The Office Action correctly notes that Mleziva et al. fails to disclose Applicants’ claimed

open time for the adhesive, a polypropylene adhesive, an antiblocking layer, and layer weights.

The Office Action cites Schmidt et al. as disclosing Applicants' claimed adhesive open time. Applicants respectfully disagree. Independent claim 1, as amended, requires an adhesive open time of 0.2 – 3 seconds. On the contrary, Schmidt et al. teaches a "minimum open time of 5 seconds." Col. 1, lines 51-52. Thus, one skilled in the art would not have a motivation to modify or an expectation of success to modify Mleziva et al. with the adhesive of Schmidt et al. Indeed, Schmidt et al. favors longer open times "to achieve adequate bonding." Col. 4, lines 27-30.

The Office Action cites Benoit as disclosing Applicants' claimed antiblocking layer. Applicants respectfully disagree. As the Office Action notes, Benoit teaches an antiblocking agent add-on of 0.01 – 1.0% and more particularly, 0.1 – 0.5% by weight relative to the resin component of the entire film structure. Further, as the present Application teaches, the elastic layer is typically about 4-20 gsm (Claim 20). As such, Benoit teaches an antiblocking agent add-on of a minimum of 0.0004 gsm (4 gsm x 0.0001) and a maximum of 0.2 gsm (20 gsm x 0.01)<sup>1</sup>. Furthermore, Benoit teaches removing even more of the antiblocking agent: "Any non-adherent antiblock agent particles can be conveniently removed by application of vacuum to the under surface of the film." Col. 5, lines 17-20; Fig. 2. As such, the amount of antiblock agent disclosed by Benoit falls below the range claimed by Applicants as about 0.2 – 2.0 gsm.

The Office Action cites Owen as teaching a motivation to use a material that can function as a release agent. However, Owen fails to remedy the deficiencies of Mleziva

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<sup>1</sup> Applicants believe Examiner mistakenly computed the calculation of 0.04–2 gsm as noted in the Office Action.

et al., Schmidt et al., and Benoit as noted above. As such, Applicants respectfully submit that, at least for the reasons indicated above, independent claim 1 patentably defines over the references cited. Applicants also respectfully submit that, at least for the reasons indicated above, the dependent claims 2-5, 8-13, 16-21, and 36 also patentably define over the references cited. The patentability of the dependent claims, however, certainly does not hinge on the patentability of the independent claims.

### **Double Patenting**

In the Office Action, claims 1-5, 8-13, 16-21 and 23-24 were rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claims 1, 9, and 12 of Application No. 11/011439 and claims 1-20 of Application No. 11/070307. Applicants agree to submit a proper Terminal Disclaimer to obviate the rejection, if needed, at a time when the Application is otherwise in condition for allowance should the Examiner maintain the rejection.

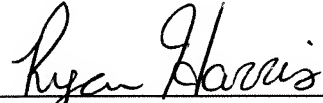
As such, Applicants respectfully submit that the present application is in complete condition for allowance and favorable action, therefore, is respectfully requested. Examiner Steele is invited and encouraged to telephone the undersigned, however, should any issues remain after consideration of this Amendment.

Please charge any additional fees required by this Amendment to Deposit Account No. 04-1403.

Appl. No. 10/750,295  
Amdt. dated Mar. 20, 2008  
Reply to Office Action of Dec. 20, 2007

Respectfully requested,

DORITY & MANNING, P.A.

A handwritten signature in cursive script, reading "Ryan P. Harris", is written over a horizontal line.

Ryan P. Harris  
Registration No. 58,662  
P.O. Box 1449  
Greenville, SC 29602-1449  
Phone: (864) 271-1592  
Facsimile: (864) 233-7342

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